

## **REMARKS**

### **I. Introduction**

Claims 49-95 and 97 are currently pending in the present application. In view of the following remarks, Applicant respectfully submits that the pending claims are in condition for allowance.

### **II. Rejection of Claims 49 and 72-78 for Non-statutory Obviousness-type Double Patenting**

Claims 49 and 72-78 stand provisionally rejected on the grounds of non-statutory, obviousness-type double patenting, as being unpatentable over claims 1 and 7-12 of co-pending Application No. 10/479,722. Applicant notes that Application No. 10/479,722 has issued as U.S. Patent No. 7,041,340 on May 9, 2006. For at least the following reasons, Applicant respectfully submits that these obviousness-type double patenting rejections should be withdrawn.

Applicant submits herewith a terminal disclaimer filed in accordance with 37 C.F.R. § 1.321 in order to overcome the above-mentioned obviousness-type double patenting rejection. Applicant notes that U.S. Patent No. 7,041,340 had been owned by International Coatings Limited. However, ownership rights in U.S. Patent No. 7,041,340 have been conveyed to Akzo Nobel Coatings International B. V., such that the present application and U.S. Patent No. 7,041,340 are each currently owned by Akzo Nobel Coatings International B. V.

Therefore, Applicant respectfully submits that the obviousness-type double patenting rejections of claims 49 and 72-78 have been overcome and should therefore be withdrawn.

### **III. Rejection of Claims 49-67 for Non-statutory Obviousness-type Double Patenting**

Claims 49-67 stand provisionally rejected on the grounds of non-statutory, obviousness-type double patenting, as being unpatentable over claims 29-42, 44, 45, 47 and 48 of co-pending Application No. 10/534,113. For at least the following

reasons, Applicant respectfully submits that these obviousness-type double patenting rejections should be withdrawn.

Regarding the pending claims of the present application, Applicant respectfully submits that all of the other outstanding rejections raised in the Office Action mailed on February 28, 2007 have been addressed and overcome herein. Thus, the only rejection remaining in the present application is the current provisional obviousness-type double patenting rejection based on co-pending Application No. 10/534,113. Applicant notes that the present application (Application No. 10/534,059) and co-pending Application No. 10/534,113 were both filed on December 11, 2003, as separate PCT International Applications designating the United States. Therefore, in accordance with M.P.E.P. § 804 I. B. 1., Applicant respectfully submits that the current provisional obviousness-type double patenting rejection based on co-pending Application No. 10/534,113 should be withdrawn.

#### IV. Conclusion

In light of the foregoing, Applicant respectfully submits that all pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited. The Commissioner is hereby authorized to charge any fees which may be necessary for consideration of this paper to Kenyon & Kenyon LLP Deposit Account No. 11-0600.

Dated: July 27, 2007

By:

Respectfully submitted,  
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